

REMARKS

Claim Rejections 35 U. S. C. 112

The Examiner rejected Claims 1-35 under 35 U. S. C. 112 Second Paragraph as being indefinite stating that the language “effective immediately” is not defined by the original disclosure, is confusing for not providing such disclosure as to set the metes and bounds of the invention or is indefinite for not so defining what is meant by “effective immediately”.

The Applicant has responded to this by deleting the language “effective immediately” from the independent Claims 1, 10, and 26 where it appears. Applicant has added language which Applicant believes defines the operation of the stop means in a way that sets the metes and bounds of the invention. Under ordinary circumstances, the operation of the stop means will be all but instantaneous, with any delay caused by the necessary physical properties of matter and the motion of electrons in electronic or electric circuits. However, if the Applicant so claims the invention, then a competitor could build in a delay of 1/10,000 of a second or some other predetermined measurable, but insignificant, delay, which would capture the Applicant’s invention while avoiding the literal claim language. The new amended claim language states that there is no predetermined delay built into the machine of such significant duration that a fully displayed symbol will have time to rotate out of the display window for the reels. As has been argued in responses to earlier Office Actions, the Applicant’s invention is one of skill and reflex. For a player of sufficiently quick reflexes, the Applicant’s invention does not require memorization of the order of the symbols on any of the reels. Here, a player of the Applicant’s game can see a symbol, can press a stop button, thus stop that same symbol within the “freeze frame” or winning position. This skill requirement constrains any built-in delay to be less than the amount of time required for a displayed symbol to fully rotate out of the display window. This amended claim language assures that the fundamental skill aspect of the Applicant’s game is preserved while, at the same time, avoiding a claim that can be easily designed around.

Claims Rejections 35 U. S. C. 102

Claims 1, 10, and 26

Claims 1-2, 10-11, and 26-27 were rejected under 35 U. S. C. as being anticipated by Nolte. First, Applicant has amended Claims 1, 10, and 26 to make it clear that at least a plurality of symbols, or for some claims two full symbols, are simultaneously displayed on each reel. These claim amendments are added to address the concern of the Examiner that: “Due to no temporal requirement for two or more symbols being perceived at the same instant on each reel.” Here, Nolte specifically teaches that two full symbols cannot be displayed on the reel at the same time. Because the Nolte reference requires less than two full symbols be displayed and the Applicant’s claims, as amended, make it clear that two full symbols are simultaneously displayed, the Nolte patent cannot be a 102 reference for the Applicant’s invention. Insofar as the Examiner concludes that the Nolte one full symbol and 98% of another symbol is “visually equivalent to at least two full symbols”, applicant respectfully traverses that conclusion of the Examiner. The Examiner’s conclusion, in effect, rewrites the Applicant’s claims to make Nolte a §102 reference. This is not permitted.

Moreover, the Applicant has now amended Claims 1, 10, and 26 to delete the “effective immediately” language and adding in its stead the requirement that there is no predetermined delay, between the pressing of the stop button and the stopping of the rotation of the reels controlled by the stop button, sufficient to allow any symbol that is fully displayed to rotate out of the display window. Because electrons do not move instantaneously, pressing of a stop button has some momentary delay (perhaps less than 1,000,000 of a second) between the time the stop button is pressed and the time for the rotation of the reels to actually stop. Ordinarily, that is the way the Applicant’s invention is designed to operate. However, in order to make the Applicant’s invention a skill game, which does not require any knowledge or memory of the order of the symbols on the reels, a player must be able to visually perceive a symbol, to press the stop button, and to have that

visually perceived symbol stop within the freeze frame. Consequently, any predetermined delay must be less than the amount of time that would allow a visually perceived symbol to fully rotate off the screen. So long as the delay between the pressing of the stop button and the stopping of the reels is less than that amount, then the essential skill element of the Applicant's game will be preserved. This is in contrast to the Nolte game. Nolte explains, in Column 5, lines 54-56, that it is critical that only a single icon is fully displayed at any particular moment in the Nolte grid. The importance of this becomes apparent when Nolte goes on to explain the timing of the player controlled stop. The written description of Nolte for Figure 5, beginning in Column 12, line 62 and extending through Column 13, line 45, makes clear the importance of the Nolte requirement that less than two full symbols be fully displayed at any one time. When the Nolte stop button is pressed, there is a built-in time delay before the rotation of the reels stops. This time delay is required to be at least long enough for at least two video images to move through the display window (Nolte, Column 13, lines 34-37). The meaning of this time delay is as follows. A perfect player with instantaneous reflexes is playing the Nolte invention. A desired icon starts to be displayed in the display window and the perfect player instantaneously presses the stop button. The built-in Nolte time delay does not stop the rotation of the movement of the video images instantaneously, but rather is constrained by the Nolte disclosure to be large enough that any icon displayed on the reel at the time the stop button is pressed completely passes out of the display window before the rotation of the reel is actually stopped. Pressing the stop button will not stop the turning of the reel in time to stop any icon displayed at the time the stop button is pressed within the display window. This is because less than two symbols are always displayed in the window and the time delay is at least equal to the amount of time for two full symbols to rotate through the display window. In the Applicant' invention, at least two full symbols are always displayed in the display window and any delay between the pressing of the stop button and the stopping of the rotation of the symbols is less than the amount of time that it would take for any one of these symbols to rotate out of the display window. Consequently, the Nolte built-in time delay is necessarily greater than

any time delay in the Applicant's amended claims, which require that there is no time delay large enough to allow any fully displayed symbol to rotate out of the display window.

The Examiner reasons that the Nolte "effectively stops after an imposed delay, such as one video frame, that may include fractionally time delays that is deemed effective immediately." Applicant respectfully traverses this conclusion of the Examiner. The time delays imposed by the Nolte reference, as are outlined above, requires that at least two icons have time to rotate through the frame before a stop takes place. Hence, in the Nolte invention, as was argued above, no visually perceived symbol may ever be stopped in the video frame by the activation of the stop button. The Examiner also notes Applicant had argued differences between the Applicant's invention and prior art based on an ideal player. This was meant as argument. It is not part of the claims, but rather was used to illustrate why the Applicant's claims in the Applicant's invention are functionally different than the prior art reference of Nolte. However, this argument itself is not part of the claims, nor is the Applicant claiming a particular player or a particular player's reflexes or actions. Here, the Applicant requires that at least two full symbols be displayed on a reel. Nolte required that no more than one symbol be fully displayed on the reel. Applicant's stop button must act without any predetermined delay long enough to allow any of the fully displayed symbols time to rotate out of the reel. Nolte, on the other hand, requires a built-in time delay, which requires any symbol which is seen in the Nolte grid to rotate out of the grid before the stop command takes effect. Consequently, Nolte cannot be a §102 reference for claims 1, 10, and 26.

Claims 2, 11, and 27

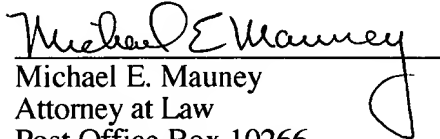
Because Claims 2, 11, and 27 depend on Claims which are now believed to be allowable, these Claims 2, 11, and 27 are also necessarily allowable. Claims 2, 11, and 27 have been amended to conform to the language in Claims 2, 11, and 27 to the amended language in Claims 1, 10, and 26. This makes it clear that the 1/10 of a second refers to a rotational speed that gives a player at

least that much time to see a displayed symbol, to press the stop button, and stop that displayed symbol in the freeze frame window. This is clearly in contrast to the Nolte invention, which necessarily requires that any symbol seen in the Nolte reel will rotate out of the reel and out of the vision of any player because of the time delay between T-2 and T-3 in Figure 5 of the Nolte disclosure, specifically explained in Column 13, lines 34-37. Consequently, Claims 2, 11, and 27 are not anticipated by the Nolte reference under §102.

Conclusion

The Applicant's invention is clearly not anticipated by the Nolte invention. The Applicant has amended his claims to again clarify the scope of the claims and to overcome any §112 rejection. With the claims as amended, it is clear that the Nolte reference is not a 102 reference. Consequently, it is believed that Claims 1-2, 10-11, and 26-27 are now in a condition for allowance. The Examiner has indicated that Claims 3-9, 12-25, and 28-35 are allowable if rewritten to overcome the §112 rejection and to include limitations of intervening base claims. Consequently, it is believed all claims are now in a condition for allowance and the same is respectfully requested.

This the 15 day of Feb, 2006.


Michael E. Mauney
Attorney at Law
Post Office Box 10266
Southport, NC 28461
910-457-0056
Registration No. 33,731